

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

FRANKLIN W. ZURZOLO,)
Plaintiff)
)
vs.) Civil Action No. 04-1348
) Judge Arthur J. Schwab/
BUTLER COUNTY PRISON,) Magistrate Judge Amy Reynolds Hay
Defendant)

ORDER

AND NOW, this 12th day of January, 2006, after the plaintiff, Franklin W. Zurzulo, filed an action in the above-captioned case, and after a Motion to Dismiss was submitted by defendant, and after a Report and Recommendation was filed by the United States Magistrate Judge granting the parties ten days after being served with a copy to file written objections thereto, and no objections having been filed, and upon independent review of the motion and the record, and upon consideration of the Magistrate Judge's Report and Recommendation, which is adopted as the opinion of this Court,

IT IS ORDERED that defendant's Motion to Dismiss is GRANTED.

IT IS FURTHER ORDERED that, pursuant to Rule 4(a)(1) of the Federal Rules of Appellate Procedure, if the plaintiff desires to appeal from this Order he must do so within thirty (30) days by filing a notice of appeal as provided in Rule 3, Fed.R.App.P.

s/Arthur J. Schwab
ARTHUR J. SCHWAB
United States District Judge

cc: Honorable Amy Reynolds Hay
United States Magistrate Judge

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